

Slide 1

Individuals with Disabilities  
Education Improvement Act\* of  
2004

Missouri Department of Elementary &  
Secondary Education  
Division of Special Education

\*The Act will continue to be referred to as the IDEA.

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Slide 2

Sections to be covered today

- Part A--General Provisions
  - Section 602. Definitions.
  - Section 609. Paperwork Reduction
- Part B--School-age services (3-21)
  - Section 612. State Eligibility.
  - Section 613. Local Education Agency Eligibility
  - Section 614. Evaluations, Eligibility Determinations, Individualized Educational Placements, Education Programs, and
  - Section 615. Procedural Safeguards.
  - Section 616. Monitoring, Technical Assistance, and Enforcement.
  - Section 619. Preschool Grants.

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Slide 3

Part A  
General Provisions

- Section 602. Definitions.
- Section 609. Paperwork Reduction.

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## Slide 4

Section 602  
Definitions

- Page 10, (4) Core Academic Subjects.
  - Core academic subjects are
    - English, reading or language arts, mathematics, science, foreign language, civics and government, economics, arts, history, and geography
  - Definition aligned with ESEA
  - IDEA 2004 references Section 9101 of ESEA throughout
  - ESEA web address  
<http://www.ed.gov/policy/elsec/leg/esea02/pg107.html#sec9101>

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## Slide 5

Section 602  
Definitions

- Pages 12-13. (10)(A-F). Highly Qualified.
- 3 types of Special Education teachers
  1. Holds state certification, has bachelor's degree
  2. Meets requirements in #1, teaches core subjects exclusively to alternate achievement standards
  3. Meets requirements in #1, teaches two or more academic core subjects

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## Slide 6

Section 602  
Definitions

- Pages 12-13. (10)(A-F). Highly Qualified.
  - HOSSE (High, Objective, Uniform State Standards of Evaluation for Content Expertise)
  - Legislative rule initiated by DESE
  - Documentation of content expertise (such as coursework &/or PD hours in content area)
  - HOSSE rule only applies to existing teachers
  - Teachers gaining certification after HOSSE rule must meet initial requirements for Highly Qualified
  - All special educators must be Highly Qualified by start of 06-07 school year

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Slide 7

Section 609  
Paperwork Reduction

- Act authorizes the Secretary of Education to offer up to 15 states the opportunity to submit proposals relating to reduction of paperwork
- Authorizes the Secretary to grant waivers of statutory or regulatory requirements for up to 4 years
- MO will work with stakeholder group to submit a Paperwork Reduction proposal

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Slide 8

Part B

- Section 612. State Eligibility.
- Section 613. Local Education Agency Eligibility.
- Section 614. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.
- Section 615. Procedural Safeguards.
- Section 616. Monitoring, Technical Assistance, and Enforcement.
- Section 619. Preschool Grants.

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Slide 9

Section 619  
Preschool Grants

- Page 139. (f) (5) & (6) Continuation of Early Intervention Services.
  - Statute now allows state option to continue Early Intervention (Part C—First Steps) services to ECSE eligible children between ages of 3 and 5K
  - This is a state **option**
  - MO has not made this choice as yet
  - For present, children who turn 3 and have been receiving Part C services, still transition to ECSE programs in LEAs, if found eligible
  - SB874 provisions still apply

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Slide 10

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - "private school students" include private, parochial and homeschooled children
  - (i)—pg. 48
    - LEA responsible for ALL children with disabilities attending private schools within the LEA's jurisdiction
    - Calculation of proportionate share occurs after consultation with representatives and "thorough and complete" child find
    - LEA must maintain and provide SEA
      - Number of private school children evaluated
      - Number determined eligible
      - Number served

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Slide 11

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - (ii) Child Find—pp 48-49
    - Process designed to ensure equitable participation
    - Must be same or similar for all children, including private school children
    - Child find for private school children must be completed in time period comparable to public school children
    - Cost of child find **cannot** be included in proportionate share

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Slide 12

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - (iii) pp 49-50—Consultation. Five specific things must be covered when consulting with representatives from private schools:
    - 1 Child find process and equitable participation of private school children
    - 2 Determination of the proportionate share available to provide services, including determination of how amount was calculated
    - 3 The consultation process itself, including how it will operate throughout the school year to ensure meaningful participation of private school children in special education and related services
    - 4 How, where, and by whom special education and related services will be provided for private school children, including discussion of types of services, including direct services and alternate delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made, and
    - 5 If the LEA disagrees with the views of the representatives of the private schools on the provision of services or the types of services, whether provided directly or through a contract, the LEA must provide the private school officials with a written explanation of the reasons why the LEA chose not to provide services, either directly or through a contract.

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## Slide 13

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - (iv) pg. 50. Written Affirmation
    - Requires LEA obtain written affirmation signed by representatives of participating private schools when consultation has occurred
    - If representatives do not provide written affirmation within a reasonable time, LEA must forward documentation of the consultation process to SEA

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## Slide 14

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - (v) pg. 50. Compliance.
    - Representatives of private schools may file complaint with SEA that LEA did not
      - engage in consultation in a timely and meaningful manner, or
      - give due consideration to views of private school officials
    - If don't agree with findings of SEA, may file a complaint with Secretary of Education for review

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## Slide 15

Section 612  
State Eligibility

- Pages 47-50. (A)(i-vii). Children enrolled in private schools by their parents.
  - (vi) pg. 50. Provision of Equitable Services.
    - Clarifies services may be provided by LEA staff or through contract
    - Clarifies that special education and related services provided to private school students, including materials and equipment, must be secular, neutral and nonideological.
  - (vii) pg 50. Public Control of Funds
    - LEA maintains title and control of any materials, equipment or property purchased to provide services to private school children
  - Remember that MO constitution and case law prohibit provision of personnel, materials and equipment on private school premises. This has not changed.

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## Slide 16

Section 612  
State Eligibility

- Pages 57-58. Participation in Assessments.
  - (A). In General
    - All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 111 of the Elementary and Secondary Education Act of 1995, with appropriate accommodations and alternate assessments where necessary and as indicated in their individualized education programs.
  - (B). Accommodation Guidelines
    - Previously SEA only required to develop guidelines for appropriate accommodations, now LEA must develop for districtwide assessments
  - (C). Alternate Assessments
    - Previously SEA only required to develop and implement guidelines for participation in alternate State assessments, now LEA must develop and implement guidelines for participation in any alternates to districtwide assessments
  - (D). Reports
    - Requires LEA to report on performance of students with disabilities in districtwide assessments, if LEA reports the performance of ALL students on these assessments

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## Slide 17

Section 612  
State Eligibility

- (23) Page 63-64. Access to Instructional Materials.
  - For blind persons or other persons with print disabilities
  - Incorporates National Instructional Materials Accessibility Standard language into IDEA 2004
  - The SEA expects to adopt this standard
  - LEA will have the option to adopt the standard
  - If LEA chooses not to adopt, must provide assurance to SEA that will provide materials to blind persons or others with print disabilities in a timely manner (Section 613 (6)(B))
  - <http://www.dese.mo.gov/divspeced/BlindBrailleguidelines.html>

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## Slide 18

Section 614  
Evaluations, eligibility determinations, individualized education programs, and educational placements

- Page 84. (a)(1)(B) Request for initial evaluation.
  - Expands who may make a request for initial evaluation.
  - In addition to parent and school staff, SEA or other state agency may also request

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Slide 19

Section 614 (cont.)

- Page 84. (C)(i)(I) Initial evaluation procedures.
  - Statute establishes 60 day timeline from date of parental consent to complete initial evaluation and determine eligibility
  - Gives SEA authority to establish different timeline

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Slide 20

Section 614 (cont.)

- Page 84. (C)(ii)(I) & (II). Exception.
  - Applies to students who transfer from one district to another during evaluation process
  - Timelines do not apply if
    - Receiving district making sufficient progress toward completion of evaluation, and
    - Parent and district agree to a specific timeline when evaluation will be completed, or
    - Parent repeatedly fails or refuses to produce child for the evaluation

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Slide 21

Section 614 (cont.)

- Page 86. (E). Rule of Construction.
  - Clarifies that screening of a student by teacher or specialist to determine appropriate instructional strategies for curriculum implementation **shall not** be considered special education evaluation

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Slide 22

Section 614 (cont.)

- Pg. 86 (B) (I) (II). Limitation.
  - (I) Reevaluation shall not occur more than once a year, unless parent and LEA agree otherwise
  - (II) Reevaluation must occur at least once every 3 years, unless parent and LEA agree that reevaluation is not necessary

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Slide 23

Section 614 (cont.)

- Page 88. (b)(3)(D). Additional requirements.
  - Applies to students that transfer from one school to another during a school year that are in the process of being evaluated
  - Provides that assessments are coordinated as necessary and as expeditiously as possible between schools to ensure prompt completion of the evaluation

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Slide 24

Section 614 (cont.)

- Page 88. (5)(A). Special rule for Eligibility Determination.
  - This section changes requirement to current exclusion for eligibility determination of "lack of instruction in reading" to "lack of **appropriate** instruction in reading, **including in the essential components of reading instruction (as defined in section 1208(3) of ESEA of 1965**"

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## Slide 25

Section 614 (cont.)

- Page 88. (6)(A)(B). Specific Learning Disabilities.
  - (A) Removes requirement for significant discrepancy from the eligibility requirement for LD
  - (B) Specifies that LEA may use a "response to scientific, research-based intervention" as a part of the evaluation procedures to determine eligibility for LD

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## Slide 26

Section 614 (cont.)

- Page 90. (5)(B)(i)(ii). Exception to reevaluation.
  - (i) Section specifies that a reevaluation is not required
    - Prior to graduation with a regular diploma, or
    - When a child exceeds age eligibility for FAPE (in MO, age 21)
  - (ii) Requires that when a child's eligibility is terminated for one of the two reasons above, the LEA must provide the child with
    - A summary of the child's academic achievement and functional performance, including recommendations on how to assist the child in meeting the child's postsecondary goals.

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## Slide 27

Section 614 (cont.)

- Page 91. IEP.
  - (A)(i). Changes "PLEP" to
    - Present Level of Academic Achievement and Functional Performance (PLAAPF)
  - (A)(i)(cc). Requires that for children who take alternate assessments that are aligned to alternate achievement standards, the Present Level contains a description of benchmarks or short-term objectives
  - (A)(ii). Adds wording "including academic and functional goals" as a part of the requirement for measurable annual goals in the IEP and eliminates requirement of short-term objectives/benchmarks, with exception noted above in (A)(i)(cc)

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Slide 28

Section 614 (cont.)

- Page 91. IEP.
  - (A)(i)(III). Modified language regarding progress reports for students with disabilities
    - Must continue to include a statement of when reports on the progress will be provided, but
    - No longer requires reports to be provided "at least as often as parents of non-disabled children are informed," and
    - No longer requires report to specify the extent to which the progress on the annual goal(s) is sufficient to enable the child to achieve the goal by the end of the year

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Slide 29

Section 614 (cont.)

- Pg 91. IEP.
  - (A)(i)(IV). Adds the following language to the statement for special education and related services
    - "based on peer-reviewed research to the extent practicable"

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Slide 30

Section 614 (cont.)

- Pg. 92. (VI). Participation in Assessments.
  - (aa) "A statement of any individual modifications needed for the child to participate" now says
  - "any individual **appropriate accommodations** that are necessary to **measure the academic achievement and functional performance** of the child on state and districtwide assessments"

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Slide 31

Section 614 (cont.)

- Pg. 92. (VI). Participation in Assessments
  - bb)(AA)(BB). If IEP team determines that child will take an alternate assessment
    - Previous language required IEP to state why the regular assessment was not appropriate for the child.
    - New language requires IEP to state why the child cannot participate in the regular assessment, **and**
      - Why the particular alternate assessment selected is appropriate for the child

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Slide 32

Section 614 (cont.)

- Pg. 92. (VIII) Transition changes.
  - Removes requirement for statement beginning at age 14
  - Requirements beginning "not later than the first IEP to be in effect when the child is 16, and updated annually"
    - (aa) Appropriate measurable postsecondary goals based upon age appropriate transition assessments, related to
      - Training
      - Education
      - Employment
      - Where appropriate, independent living skills
    - (bb) Transition services (including courses of study) needed to assist the child in reaching those goals

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Slide 33

Section 614 (cont.)

- Page 94. (C). IEP Team Attendance.
  - (i). Parent and LEA can agree that any member of the IEP team does not have to attend if the member's area of the curriculum or related services is not being modified or discussed
  - (ii). A member may be excused from the meeting, in whole or in part, when meeting involves their area if
    - The parent and LEA consent, and
    - The member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting
  - (iii) Parent's agreement in both of the above shall be in writing.

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## Slide 34

Section 614 (cont.)

- Page 94. (D). IEP Team Transition.
  - Applies to children transitioning from Part C (First Steps) to Part B (ECSE).
  - Requires that, if the parent requests it, the child's Part C Service Coordinator or other representative of the Part C system be invited to the initial IEP meeting
- Page 94 (2)(B)
  - Requires, for children transitioning from Part C to Part B, that the IEP team consider the provisions of the child's IFSP

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## Slide 35

Section 614 (cont.)

- Page 95. (C)(i)(ii). Program for children who transfer school districts.
  - (C)(i)(I). Transfers within the same state.
    - Requires receiving district to provide services comparable to those in the IEP from the sending district, in consultation with the parent, until the LEA adopts the previous IEP or develops, adopts and implements a new IEP
  - (C)(i)(II). Transfers from out of state.
    - Requires receiving district to provide services comparable to those in the IEP from the sending district, in consultation with the parent, until the LEA conducts an evaluation, if determined necessary, and develops a new IEP, if appropriate.
  - (C)(i)(i)(i). Transmittal of Records.
    - New school must take reasonable steps to promptly obtain records
    - Previous school must take reasonable steps to respond to request

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## Slide 36

Section 614 (cont.)

- Page 95-96. (3)(A)(iv). Development of IEP
  - When developing the IEP, requires IEP team to consider
    - The academic, developmental, and functional needs of the child
  - This is in addition to existing requirements to consider
    - Strengths of the child
    - Concerns of the parent for enhancing the education of their child, and
    - The results of the initial or most recent reevaluation of the child

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Slide 37

Section 614 (cont.)

- Page 97. (D) Agreement not to convene IEP meeting.
  - Allows the parent and LEA to agree not to convene an IEP meeting after the annual IEP for a school year, for the purpose of making changes to the IEP
  - Instead, may develop a written document to amend or modify the child's current IEP
- Page 97. (F) Amendments to IEP.
  - Restates that changes to the IEP may be made either by entire IEP team or by amending the IEP (rather than redrafting the entire IEP as stated above).
  - If the parent requests, the LEA must provide them with a revised copy of the IEP with the amendments incorporated

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Slide 38

Section 614 (cont.)

- Page 97-99. (5) Multi-year IEP Demonstration.
  - The section authorizes the Secretary of Education to allow up to 15 states to allow parents and LEAs to draft multi-year IEPs
  - When more information is available, DESE will work with a group of stakeholders to determine if we will submit a proposal

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Slide 39

Section 615  
Procedural Safeguards

- Changes in procedures for filing request for and conducting a Due Process Hearing
  - Page 102. (7)(A)(B). Procedures for filing a request for Due Process.
  - Page 103. (2)(A)(B)(C)(D)(E)
  - Pages 107-109. (f)(1-3)
- Changes in procedures for mediation
  - Pages 106-107. (F)

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Slide 40

Section 615  
Procedural Safeguards

- Page 104-105. (d) Procedural Safeguards Notice.
  - Procedural safeguards required to be given only 1 time per year, except that a copy must also be given at the following times
    - Initial referral or parent request for evaluation
    - Initial filing of a request for Due Process Hearing
    - Upon parent request
    - Upon certain disciplinary actions

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Slide 41

Section 615  
Procedural Safeguards

- Page 113-119. Discipline.
  - Services (k)(1)(D)(i)
    - Children who are suspended, must still continue to be provided services that allow them to participate in the general education curriculum and progress toward meeting the goals in their IEP
    - Added requirement for provision of services—“receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.”
  - Over 10 days where no pattern of suspension.
    - No automatic FBA or BIP on Day 11, if there is no pattern of suspension
  - Manifestation Determination (k)(1)(E)
    - Does not require IEP team—“LEA, parent and relevant members of the IEP team”
    - Does not require a meeting—“shall review all relevant information...”
    - Revised considerations streamline the determination of relatedness
      - If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
      - If the conduct in question was the direct result of the LEA’s failure to implement the IEP.”

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Slide 42

Section 615  
Procedural Safeguards

- Page 113-119. Discipline.
  - Long term suspension (Disciplinary Change of Placement) (k)(1)(F)
    - If conducted is not related to disability, no FBA or BIP is required, however
    - If conduct is related, FBA and BIP continue to be required
  - Interim Alternative Educational Setting
    - Change from 45 Calendar days to 45 SCHOOL days
    - Can be used for students who inflict “serious bodily injury” in addition to those disciplined for weapons/drugs
    - “Serious bodily injury” definition is that used in criminal code
    - Notification provision—Not later than the date on which decision is made to take disciplinary action, LEA must notify the parents of the decision and provide Procedural Safeguards.
  - Expedited Due Process Hearing—page 116, (3)
    - Hearing officer can now remove extremely dangerous student for 45 SCHOOL days, rather than 45 calendar days
    - Standard (burden of proof) that Hearing Officer must use has been loosened
    - Timeliness changed
    - Changes in stay put provisions
    - Court litigation is still the preferable alternative

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Slide 43

Procedural Safeguards

- Protections for children not yet eligible
  - Pages 118-119, (5)
  - Changes in when LEA deemed to have knowledge
    - Parent of child expressed concern, in writing, to **supervisory or administrative personnel...or the child's teacher...**
    - Teacher of the child or other LEA personnel has expressed specific concerns...directly to the director of special education or other **supervisory** personnel
    - If parent has not allowed an evaluation or has refused services or child has been evaluated and found ineligible

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Slide 44

Section 615  
Procedural Safeguards

- Page 121. (n) Electronic Mail
  - Allows parent to elect to receive notices via e-mail, if the LEA makes that option available

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Slide 45

Section 616  
Monitoring, technical assistance and enforcement

- Page 123 (2) Focused Monitoring
  - Shift from emphasis on monitoring for procedural compliance to monitoring for improvement in student performance
  - Division of Special Education Focused Monitoring pilot—2004-2005 and 2005-2006
  - Implement Focused Monitoring system in 2006-2007
- Page 129. (f) State Enforcement.
  - This is a new section which requires the state to prohibit an LEA from reducing their maintenance of effort (MOE) as allowed in the Statute, if the SEA determines that the LEA is not meeting the requirements of the statute, including the targets in the State's performance plan.

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## Slide 46

Other changes that reflect current practice in Missouri

- Page 9. (1) (B) Surgically implanted medical device.
- Page 13. (11) Homeless Children.
- Page 14. (18) Limited English Proficient.
- Page 15. (23) Definition of Parent.
- Page 15. (26) (A-B). School nurse service as a related Service.
- Page 17. (36) Ward of the State.
- Page 64. (24) Overidentification and Disproportionality.
- Page 64. (25) Prohibition on Mandatory Medication.
- Page 85. (D)(ii) Absence of Consent.
- Page 97. (E) Consolidation of IEP Team Meetings.
- Page 100. (f) Alternative Means of Meeting Participation.

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## Slide 47

Wrap-up

- Further information will be provided in the weeks to come through
  - Written documents
  - Telecasts and webstreams
  - Conferences and workshops
- Submit your questions/comments to
  - [Idea.Comments@dese.mo.gov](mailto:Idea.Comments@dese.mo.gov)

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